

From: mgallenson@LadasParry.com
Sent: Friday, May 23, 2003 8:21 PM
To: Unity Comments

Dear USPTO:

I am commenting on the proposal to change the unity of invention rule at the USPTO to comport with that used in Europe. I am against it. I am watching what used to be a good patent system being destroyed by pressures to conform to European standards. Inventors in general, were able in the past to obtain patents in about 2.5 years time from filing at the USPTO. Now, with the publication system and despite all of the time guidelines, we are lucky to receive an office action earlier than one year from filing. Perhaps the PTO feels that since the application is being published with the potential for back damages, why rush.

The term of patents is now 20 years when before it was 17 years from grant. Thus a patentee has the burden of proving it should be awarded extra time due to delay by the USPTO in prosecution when in the past that delay was automatically handled by giving the patentee a term of 17 years from grant.

Outrageous fees, jobbing out searches, examination fees are all also being discussed.

Now the unity of invention situation is being attacked. Most foreigners will tell you that the U.S. patent system of old, was the best in the world for inventors. It is now being destroyed. Unity of invention forces you to maintain in your independent claims a common patentable characteristic. That is unduly restrictive. A device may be in the same search area yet avail itself to multiple independent claims which do not share a common patentable characteristic. Having worked extensively before the EPO, JPO and USPTO, there is no question but that the present system at the USPTO as to unity, while not perfect, is far better than the system used in these other jurisdictions. These other jurisdictions ultimately limit the number of independent claims when such limitation is not really necessary in terms of search and examination, and thereby force applicants to file many more divisional applications.

If the intent of the USPTO is to ultimately make the filing of patents so expensive that corporations and sole inventors cannot file these anymore, it is going in the right direction. What that will do to this country, one of the strongest and most successful in the world, is worth considering. It is business which makes this country run, and if people cannot protect their ideas the motivation for arriving at new ideas is gone.

In short and again, I am against the change to a European unity of invention system. I am in favor of the U.S. way. It's been successful thus far, why ruin it with a less successful system?

Mavis Gallenson